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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,914	01/05/2004	Kazunori Chiba	247303US3CONT	1981
22850	7590	11/14/2005	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			RAO, G NAGESH	
			ART UNIT	PAPER NUMBER
			1722	
DATE MAILED: 11/14/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/750,914	Applicant(s) CHIBA ET AL.	
	Examiner G. Nagesh Rao	Art Unit 1722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☒ Claim(s) 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Objections

1) Claim 10 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 10 refers to a process limitation of the temperature's relation to the roller which is not further limiting the parent claims directed towards the apparatus's structure.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2) Claims 1, 3-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Flosdorf (US Patent No. 2,608,472).

Flosdorf 472 teaches a sublimation apparatus where there is taught a device capable for handling sublimable solid material, and is comprised of a type of housing (11 and 51) at least one rotatable roller capable of handling an evaporation

substance (10) and at least one rotatable roller capable of handling a precipitation means (19) both installed in housing means. Both rollers are equipped with heating and cooling means that can be altered to lower or raise the temperature pertaining to each roller depending on how the operator sees fit (See Col 3 Lines 31-50, Col 4 Lines 3-12, 54-61, and Col 5 Lines 1-10). Furthermore Flosdorf 472 teaches a scraping means for removing excess material that may be adhering to the rollers (Col 3 Lines 51-71, elements 12 and 20).

Finally the Flosdorf 472 apparatus is inherently capable of handling a process comprised of batch-wisely or continuously evaporating or sublimating the solid material deposited on a surface of a rotatably installed evaporation roller; batch-wisely or continuously precipitating the evaporated or sublimated material on a rotatably installed precipitation roller; batch-wisely or continuously scraping off crystals precipitated on a surface of the precipitation roller, at a scraping section, and batch-wisely or continuously discharging the crystals.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
- 3) Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Flosdorf (US Patent No. 2,608,472) in view of Aleksandro (SU 1535565 Russian Publication).

Although Flosdorf 172 teaches a sublimation apparatus that reads on applicant's invention it may very well be inherent but somewhat lacks a defined teaching of an adjustable means between the two rollers.

Aleksandro 565 pertains to a sublimation unit that has a sealed evaporation chamber and condenser with lid, drive to rotate, and move condenser backwards/forwards, etc...

Aleksandro 565 teaches that it is known to have a driving means to move forward or backward the condenser which has the means for rotating, therefore implying that it is well known to have distance adjustment means on these rollers.

Therefore at the time of the invention it would have been obvious to one with ordinary skill in the art to implement such a design to coordinate a movement means between the two rollers separately or in relation to one another and inevitably allowing for that distance changing means to occur as a result of this known modification.

4) Examiner would like to point out that the claims are so broadly written that they would very well encompass a filter being disposed between the two rollers. There is no language defining that the apparatus not consist, just merely comprise of the following elements, which Folsdorf 472 very well does. Next, in claim 2 with reference to the adjustable distance between the evaporation and precipitation roller, is so broad in interpretation that Folsdorf 472 too covers that by the mere inherency that the rollers would expand or compress upon use and thermal fluctuations alone on the material that they could become closer or farther apart from each other. Furthermore there is nothing novel regarding the between the adjustability factor between the two rollers. Furthermore where is the structural

limitation being claimed to differentiate the structure of this adjustable distance means?

Any inquiry concerning this communication or earlier communications from the examiner should be directed to G. Nagesh Rao whose telephone number is (571) 272-2946. The examiner can normally be reached on 9AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GNR



ROBERT KUNEMUND
PRIMARY EXAMINER